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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,340	11/18/2003	Hideki Matsumoto	NGB-118-A	7601
21828	7590	03/15/2006	EXAMINER	
CARRIER BLACKMAN AND ASSOCIATES 24101 NOVI ROAD SUITE 100 NOVI, MI 48375			VANAMAN, FRANK BENNETT	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/716,340

Applicant(s)

MATSUMOTO ET AL.

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,10,12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/18/03; 2/2/04</u>  | 6) <input type="checkbox"/> Other: _____                                    |

### **Election/Restriction**

1. Applicant's election with traverse of Species I in the reply filed on Jan 6, 2006 is acknowledged. The traversal is on the ground(s) that the inventions are 'closely associated' or that the claims are directed to different aspects of a single inventive concept, and that examining a plurality of inventions does not constitute a serious burden. This is not found persuasive for the following reasons:

The statutory basis for a restriction requirement or election of species is directed to the presentation of plural inventions in a single application, not a perceived burden on the examiner. In this case, the examiner notes that applicant has not argued that the species are patentably indistinct, and in view of the non-presentation of such arguments, it is deemed that applicant believes the species to be patentably distinct, and as such, a restriction or election of species would be proper. Furthermore, applicant has not presented any evidence that the examination and search of a plurality of patentably distinct inventions would require no more burden than the examination and search of a single invention. The arguments of applicant may not take the place of evidence in the record.

The requirement is still deemed proper and is therefore made FINAL.

2. Applicant has identified claims 1-6 and 8-11 as being directed to the elected invention.

3. Claim 8 recites, at lines 7-8: "wherein both of the canister and the exhaust pipe are accommodated in one recessed accommodating portion located beneath the first seat" and as such appears to be directed to Species III and IV, but not to elected Species I.

Resultantly, claims 8 and 10 are further withdrawn from consideration. Claims 7, 8, 10, 12 and 13 are thus withdrawn from consideration at this time.

### **Amendment Papers**

4. Applicant's amendment papers are noted. In the amendment to claim 8, no status identifier has been presented, as is required in 37 CFR 1.121. For the purpose of this office action, and to advance prosecution, claim 8 is understood to be identifiable as "currently amended". It is additionally not clear whether the markings showing changes

made to claim 8 accurately reflect that material which was added and/or deleted from the claim as a result of the amendment. Care should be taken to ensure that proper status identifiers are applied to the claims pending in an application.

#### **Drawings**

5. Figures 4a and 8 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### **Claim Objections**

6. Claim 1 is objected to because of the following informalities: in claim 1, line 3, it is not entirely clear whether "thereof" is intended to refer to the compartment or the vehicle. For the purpose of this office action, it is understood to refer to the vehicle. Appropriate correction is required.

#### **Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 4-6, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horiuchi et al. (US 5,988,145) in view of Matsumoto et al. (JP 2000-85382). Horiuchi et al. teach a vehicle having a passenger compartment which includes at least a rear seat (col. 3, lines 44-45) in close proximity to which is positioned a fuel tank (T), the engine (E) being located at a front end of the vehicle; the fuel line to the

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engine including a canister (C) which receives fuel from the tank and supplies fuel to the engine, and which may be positioned in one of numerous locations.

While Horiuchi et al. fail to explicitly state that tank T is located under a rear seat, in view of one of the potential locations of the canister as being "below a rear seat in the vicinity of the fuel tank", it would have been obvious to one of ordinary skill in the art at the time of the invention to place the fuel tank at least partially under the rear seat for the purpose of increasing room in the trunk space.

The reference to Horiuchi et al. fails to teach the provision of an exhaust pipe and canister positioned in respective recessed accommodating portions below the passenger compartment between the fuel tank and engine. Matsumoto et al. teach a vehicle structure wherein a floor portion of a passenger compartment is provided with plural recessed positions (41, 44, note figure 4), which locations are beneath passenger and driver seats (7, 8), one location including a fuel line (48), the other including an exhaust line (47). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the vehicle of Horiuchi et al with an under-floor structure as shown in Matsumoto et al., to include the recessed portions, through one of which an exhaust line passes, and through the other of which the fuel line passes, for the purpose of increasing the available mechanical space beneath the vehicle, facilitating the accommodation of more vehicle elements there-below. In view of Horiuchi et al. teaching that the canister may be positioned in one of numerous locations, it would have been obvious to one of ordinary skill in the art at the time of the invention to position the canister in one of the recessed portions (e.g., along the fuel line), so as to prevent it from taking up space in the engine room or trunk storage location.

9. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horiuchi et al. in view of Matsumoto et al. and Yasuo (JP 2001-152839). The references to Horiuchi et al. and Matsumoto et al. are discussed above and fail to teach an expansion element in the exhaust line. Yasuo teaches, in the description of the prior art (figure 6) that it is old and well known to place an expansion element (5) in an exhaust line (4, 6), and to position that element under a forward seating space. It would have been obvious to one of ordinary skill in the art at the time of the invention to place an

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expansion element such as taught by Yasuo's description of the prior art, in a region under a seat (as taught by Yasuo and previously provided in the combination by the reference to Matsumoto et al.), in the vehicle of Horiuchi et al. as modified by Matsumoto et al., for the purpose of locating the element in a zone under the vehicle where it does not reduce the amount of storage space, or operating space in the engine compartment.

### Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Honda et al. (US 4,727,955), Murdock et al. (US 5,058,693), Iwashita et al. (US 5,371,412), Ueda et al. (US 6,575,199), and Takanishi (JP 2002-192966) teach vehicle structures of pertinence.

11. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**



Handwritten signature of F. Vanaman, dated 3/2/08.